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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/629,036	07/31/2000	Peter Tenereillo	CISCP661	4736

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EXAMINER

BOUTAH, ALINA A

ART UNIT PAPER NUMBER

2143

DATE MAILED: 05/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	09/629,036		TENEREILLO, PETER	
	<b>Examiner</b>		<b>Art Unit</b>	
	Alina N Boutah		2143	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 February 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3,4,6,7,9,16,18-20 and 23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3,4,6,7,9,16,18-20 and 23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Amendment***

This action is in response to Applicant's amendment filed February 16, 2006. Claims 1, 3, 4, 6, 7, 9, 16, 18-20, and 23 are pending in the present application.

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 6, 7 and 9 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. These claims are not limited to tangible embodiments. In view of Applicant's disclosure, the "computer-readable storage medium" is not limited to tangible embodiments, instead being defined as including both tangible embodiments (e.g., CD ROM, floppy disk, tape, flash memory, system memory, hard drive) and intangible embodiments (e.g., data signal embodied in a carrier wave). As such, the claim is not limited to statutory subject matter and is therefore non-statutory.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3, 4, 6, 7, 9, 16, 18-20, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over USPN 6,754,706 issued to Swildens et al. (hereinafter Swildens) in view of USPN 6,735,631 issued to Oehrke et al. (hereinafter Oehrke) in further view of USPN 6,665,702 issued to Zisapel et al. (hereinafter referred to as Zisapel).

(Amended) Regarding claim 1, Swildens teaches a method for providing a persistent connection between a client and a real server, the method comprising:

receiving at a DNS server a request originating from a client of a plurality of clients for connection to a virtual server implemented on a local director (abstract; figure 5; col. 2, lines 32-67);

identifying a natural class of an IP address of said first client (figure 1; col. 1, lines 62-67; col. 2, lines 39-45; col. 6, lines 1-8; col. 6, lines 47-65); and

determining if the DNS server has received and sent out connection requests from said first client or any client of said plurality of clients having the same natural class as said first client by searching a table stored on the local director and identifying previous connections created between the local director and said two or more real servers (abstract; figures 1 and 2; col. 1, lines 55-67; col. 2, lines 39-65);

if the DNS server has received and sent out a connection request to one of said real servers from said first client or any client having the same natural class as said first client, selecting the same real server for connection with said first client (abstract; figures 1 and 2; col. 1, lines 55-67; col. 2, lines 39-65); and

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if the DNS server has not received and sent out a connection request to one of said real servers from said first client or any client having the same natural class as said first client, selecting one of said DNS servers based on load balancing (abstract; figures 1 and 2; col. 1, lines 55-67; col. 2, lines 39-65);

forwarding to the selected real server transmissions originating from the client (abstract; col. 2, lines 32-65).

However, Swildens does not explicitly teach selecting a real server comprising selecting the same real server for all clients having the same natural class subnet. Swildens is also silent about the use of local director to perform the function above.

In an analogous art, Zisapel teaches selecting a real server comprising selecting the same real server for all clients having the same natural class subnet (col. 3, lines 6-9; col. 14, lines 21-29).

Oehke teaches providing a local director in communication with a plurality of clients and two or more real servers, said plurality of client configured for communication with said two or more real servers through the local director (abstract; figure 2; figure 3: 56a and 56b; figure 4: 86a and 86b).

At the time the invention was made, one of ordinary skill in the art would have been motivated to employ a local director in order to direct network traffic for efficient load balancing, therefore enhancing the network's efficiency.

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Regarding claim 3, Swildens teaches the method of claim 1 wherein receiving a request comprises receiving a request from a firewall and wherein the IP address of the device is the IP address of the firewall (col. 6, lines 46-65).

Regarding claim 4, Swildens teaches the method of claim 1 wherein the request is an HTTP request (col. 6, line 66 to col. 7, line 6).

Claim 6 is similar to claim 1 therefore is rejected under the same rationale.

Regarding claim 7, Swildens teaches a computer program product wherein the computer readable medium is selected from a group consisting of CD-ROM, floppy disk, tape, flash memory, system memory, hard drive, and data signal embodied in a carrier wave (col. 9, lines 16-21).

Regarding claim 9, Swildens teaches the computer program product of claim 6 wherein the code that receives a request comprises code that receives a request from a firewall and wherein the IP address of the device is the IP address of the firewall (col. 6, lines 46-65).

Regarding claim 16, Swildens teaches selecting the same DNS server for requests from IP addresses having the same natural class subnet (col. 7, lines 28-32).

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Regarding claim 18, Swildens teaches the method of claim 1 further comprising updating said table each time a connection is made between the DNS server and said two or more real servers with a new natural class (col. 7, lines 40-49).

Regarding claim 19, Swildens teaches the method of claim 1 wherein identifying a natural class comprises identifying a subnet mask and wherein the selection of the real server is based on the identified subnet mask (col. 6, lines 46-65).

Regarding claim 20, Swildens teaches the method of claim 1 further comprising updating entries in said DNS server table at predefined intervals (col. 6, lines 46-65).

Claim 23 is similar to claim 1, therefore is rejected under the same rationale.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alina N. Boutah whose telephone number is 571-272-3908. The examiner can normally be reached on Monday-Friday (9:00 am - 5:00 pm).

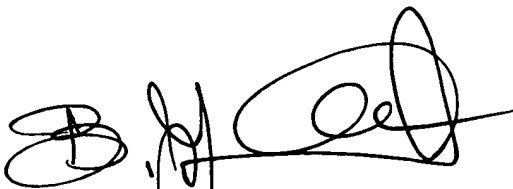
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Wiley can be reached on 571-272-3923. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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SUPERVISORY PATENT EXAMINER